

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA  
BECKLEY DIVISION**

**BMS CAT, INC.,**

**Plaintiff,**

**CIVIL ACTION NO.: 5:16-cv-11955**

**v.**

**GREENBRIER HOTEL CORPORATION,  
*et al.*,**

**Defendants.**

**MEMORANDUM OF LAW IN SUPPORT OF JOINT MOTION TO STAY**

COME NOW all parties, by their respective counsel, and hereby move this Court pursuant to Rule 16(b)(4) of the Federal Rules of Civil Procedure to stay further proceedings, until such time as the final settlement payment is received by Plaintiff BMS Cat, Inc. In support of their Joint Motion to Stay, the parties state as follows:

**STATEMENT OF RELEVANT FACTS AND LEGAL ARGUMENT**

Plaintiff filed this civil action on December 8, 2016. *Id. See generally*, ECF Doc. No. 1. Plaintiff named Greenbrier Hotel Corporation, James C. Justice Companies, Inc., and Justice Family Group, LLC, (hereinafter “Justice Defendants”), as well as various other secured parties and trustees as Defendants. *Id.* This civil action arises from Plaintiff’s allegations that it entered into a contract with the Justice Defendants to perform flood remediation services at various properties in and around White Sulphur Springs, West Virginia, after a significant rain event in June of 2016 and that the Justice Defendants failed to remit payment for such services.

The Justice Defendants and Plaintiff (“the settling parties”) have reached an agreement in principle to resolve and settle this matter. As part of the settlement agreement, the financial terms of the resolution are confidential, permitting the settling parties to disclose only that the financial consideration to accompany the settlement is to be paid in six (6) consecutive monthly installments beginning on July 15, 2017 and ending on December 15, 2017. Also, as part of the resolution the settling parties agreed to stay this matter and leave it open on the Court’s docket, if the Court allows them to do so, for purposes of enforcing the terms of the settlement agreement without having to file a separate civil matter. The remaining Defendants do not oppose staying this matter and permitting it to remain on this Court’s docket for the purpose of final resolution.

WHEREFORE, the parties jointly move this Court to stay Civil Action No. 5:16-cv-11955, until such time as the final settlement payment is received by Plaintiff BMS Cat, Inc. and an agreed dismissal order is tendered to this Court for entry.

**GREENBRIER HOTEL CORPORATION,  
JAMES C. JUSTICE COMPANIES, INC.,  
AND JUSTICE FAMILY GROUP, LLC,**

**By counsel,**

**/s/ J. Victor Flanagan**

J. Victor Flanagan, (WVSB No. 5254)  
Jared C. Underwood, (WVSB No. 12141)  
Pullin, Fowler, Flanagan, Brown & Poe, PLLC  
600 Neville Street, Suite 201  
Beckley, West Virginia 25801  
*Counsel for Justice Defendants*

**Approved by:**

/s/Charlotte A. Hoffman Norris

Charlotte A. Hoffman Norris, Esquire (WVSB No. 5473)

Robert A. Sweeney, Jr., Esquire (WVSB No. 5831)

Jenkins Fenstermaker, PLLC

PO Box 2688

Huntington, WV 25726-2688

Email: [chn@jenkinsfenstermaker.com](mailto:chn@jenkinsfenstermaker.com)

[rhs@jenkinsfenstermaker.com](mailto:rhs@jenkinsfenstermaker.com)

*Counsel for Plaintiff*

/s/ Daniel J. Konrad

Daniel J. Konrad, (WVSB No. 2088)

DINSMORE & SHOHL LL

611 Third Avenue

Huntington, WV 25701

Email: [daniel.konrad@dinsmore.com](mailto:daniel.konrad@dinsmore.com)

*Counsel for Sarah Ellis, James H. Adkins, and Premier Bank*

/s/ Paul O. Clay, Jr.

Paul O. Clay, Jr., (WVSB No. 742)

PO Box 746

Fayetteville, WV 25840-0746

Email: [poclayjr@suddenlinkmail.com](mailto:poclayjr@suddenlinkmail.com)

*Counsel for Fayette County National Bank, Denise A. Light and Paul O. Clay, Jr*

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**Defendants.**

**CERTIFICATE OF SERVICE**

I certify that on the 25th day of July, 2017, I electronically filed “***MEMORANDUM OF LAW IN SUPPORT OF JOINT MOTION TO STAY***” with the United States District Court for the Southern District of West Virginia by using the CM/ECF system, and served this document upon the following parties or their counsel of record:

Charlotte A. Hoffman Norris, Esquire  
Robert A. Sweeney, Jr., Esquire  
Jenkins Fenstermaker  
PO Box 2688  
Huntington, WV 25726-2688  
Email: [chn@jenkinsfenstermaker.com](mailto:chn@jenkinsfenstermaker.com) and  
[rhs@jenkinsfenstermaker.com](mailto:rhs@jenkinsfenstermaker.com)

Paul O. Clay, Jr., Esquire  
PO Box 746  
Fayetteville, WV 25840-0746  
Email: [poclayjr@suddenlinkmail.com](mailto:poclayjr@suddenlinkmail.com)

Daniel J. Konrad, Esquire  
DINSMORE & SHOHL LLP  
611 Third Avenue  
Huntington, WV 25701  
Email: [daniel.konrad@dinsmore.com](mailto:daniel.konrad@dinsmore.com)

**/s/ J. Victor Flanagan**

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J. VICTOR FLANAGAN (WV STATE BAR NO. 5254)

JARED C. UNDERWOOD (WV STATE BAR NO. 12141)

Pullin, Fowler, Flanagan, Brown & Poe PLLC

600 Neville Street, Suite 201

Beckley, WV 25801

Telephone: (304) 254-9300

Facsimile: (304) 255-5519

Email: [vflanagan@pffwv.com](mailto:vflanagan@pffwv.com)

[junderwood@pffwv.com](mailto:junderwood@pffwv.com)